

# CADWALADER

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May 2, 2008

## VIA FACSIMILE

Honorable Charles L. Bricant  
United States District Judge  
United States District Court for the  
Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601-4150

Re: John E. Andrus Memorial, Inc. (d/b/a Andrus on Hudson) v. Daines  
07-CV-3432 (CLB) (KNF)

**MEMO ENDORSAL**

*The evidentiary hearing  
scheduled for May 7, 2008  
is cancelled. Counsel are to  
contact the Court, Ms. Alice  
Cama, Courtroom Deputy to  
re-schedule this hearing  
as ordered  
May 5, 2008 Charles L. Bricant  
USDJ*

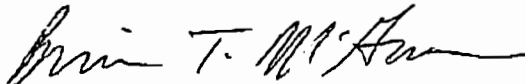
Dear Judge Bricant:

As Your Honor is aware, we represent plaintiff John E. Andrus Memorial, Inc. (d/b/a Andrus on Hudson) (the "Andrus"). I write to confirm the parties' appearance before this Court next Wednesday, May 7, 2008, at 9:30 A.M. I also write to advise the Court that the parties will not be ready to proceed with an evidentiary hearing on May 7, 2008, as the requested depositions will not have taken place by that date, but we expect to discuss with the Court possible dates for scheduling the hearing later this month.

The Order to Show Cause provided for a Temporary Restraining Order pending the hearing and determination of plaintiff's application for preliminary injunctive relief. We wish to confirm our understanding that the Court has determined good cause for extending the TRO beyond the 10-day limit in Fed. R. Civ. P. 65(b)(2).

I have reviewed the contents of this letter with my adversary, who does not object.

Respectfully,



Brian T. McGovern

cc: John Peter Gasior, Esq. (via facsimile)

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